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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/767,041	01/29/2004	Ramiro Arrez	0343-0036	4828

7590

03/28/2006

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EXAMINER

FOX, CHARLES A

ART UNIT

PAPER NUMBER

3652

DATE MAILED: 03/28/2006

Please find below and/or attached an Office communication concerning this application or proceeding:

Office Action Summary	Application No. 10/767,041	Applicant(s) ARREZ ET AL.	
	Examiner Charles A. Fox	Art Unit 3652	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-12 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 29 January 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>20040610</u> . | 6) <input type="checkbox"/> Other: ____. |

Information Disclosure Statement

The information disclosure statement filed June 10, 2004 fails to comply with 37 CFR 1.98(a)(2), which requires a legible copy of each cited foreign patent document; each non-patent literature publication or that portion which caused it to be listed; and all other information or that portion which caused it to be listed. It has been considered and placed in the application file, but the information lined through therein has not been considered. All lined through foreign or non-patent literature citations lined through are not present in the application file. All lined through U.S. references are either duplicate citations or they have no relevance to the instant application.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-12 are rejected under 35 U.S.C. 102(b) as being anticipated by Redding. Redding US 5,466,110 discloses a lifting device comprising:

- a base;
- a face plate (40) pivotally connected to said base;
- a rotary actuator operatively attached to said face plate for raising and lowering said plate;
- a lift hook (110) fixed to said face plate for lifting a container via an upper lift member (34);

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a latch assembly (122) mounted to said face plate for latching a lower lift member of said container;

said latch assembly having a hook biased towards an engagement position of said lower member;

whereby when said face plate is raised said latch assembly is positioned such that it captures said lower lift member of said container;

said actuator having a housing carried by said base and rotatable output shafts operably connected to said face plate;

an actuator arm assembly mounted on said base plate and connected to said face plate such that raising of said face plate cause movement of the latching assembly;

wherein a first end of said actuation assembly is mounted inboard an end of said rotatable output shafts via a coupling (102);

a lift arm (60) operatively connected to said rotary actuator and said face plate for raising and lowering thereof.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-5 and 7-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bayne in view of Redding et al. Regarding claims 1-3,5,7-9,11 Bayne US 5,308,211 discloses a lifting device comprising:

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a base (180);

a face plate (100) pivotally attached to said base;

a rotary actuator (166) mounted between said base and face plate for raising and lowering said face plate relative to said base;

at least one actuator arm (192,194) connecting said actuator to said faceplate;

a latch assembly mounted on said face plate;

said latch having an upper member (116) and a spring biased lower member(110);

wherein when said faceplate is raised said lower member is moved via arm (228) to engage a lower section of a container. Bayne does not teach the upper latch member as being fixed. Redding et al. US 5,024,573 teaches a lift device comprising:

a face plate (96);

an actuator(100) for raising and lowering said face plate;

upper and lower latching means (116,88) on said face plate;

wherein said upper latching means is fixed on said face plate and said lower latching means is pivotal relative to said face plate;

wherein when said face plate is raised said lower member is moved to engage a lower section of a container. It would have been obvious to one of ordinary skill in the art, at the time of invention to provide the device taught by Bayne with a fixed upper latch member as taught by Redding et al. in order to simplify the operation of the device using an element that is well known in this art for performing the function of lifting a trash container.

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Regarding claims 4 and 10 Bayne further teaches said base having supports (238,240) wherein a first end of an actuator arm are mounted thereto.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Charles A. Fox whose telephone number is 571-272-6923. The examiner can normally be reached between 7:00-4:00 Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eileen D. Lillis can be reached at 571-272-6928. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

 3-24-06

Charles A. Fox
Examiner
Art Unit 3652